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TREND HUNTER INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

AUGUST IMAGE, LLC, a New York  
limited liability company,

Plaintiff,

v.

TREND HUNTER INC., a Canadian  
corporation; and DOES 1-10, inclusive,

Defendants.

Case No. 2:22-cv-07120 DMG (MAAx)

**DEFENDANT TREND HUNTER  
INC.'S ANSWER TO SECOND  
AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

1 Defendant Trend Hunter Inc. (“Trend Hunter”) answers the Second Amended  
2 Complaint of Plaintiff August Image, LLC (“Plaintiff”) as follows:

3 **ANSWER**

4 Trend Hunter responds to the specific allegations of Plaintiff’s Second  
5 Amended Complaint in accordance with the order and number of the paragraphs in  
6 which they are set out, as follows:

7 **RESPONSE AS TO AVERMENTS AS TO JURISDICTION AND VENUE**

8 1. In response to Paragraph 1 of the Second Amended Complaint, Trend  
9 Hunter admits the averment in the first sentence that “this is a civil action against  
10 Defendants”, but Trend Hunter denies the averment in the first sentence that it has  
11 committed “acts of copyright infringement in violation of the United States  
12 Copyright Act, 17 U.S.C. §§ 101 *et seq.*”

13 2. In response to Paragraph 2 of the Second Amended Complaint, Trend  
14 Hunter states that Paragraph 2 sets forth legal conclusions and questions of law to  
15 which no response is required, and in addition, Trend Hunter denies that the Court  
16 has subject matter jurisdiction over this claim against Trend Hunter to the extent the  
17 subject images were not viewed in the United States.

18 3. Trend Hunter states that Paragraph 3 sets forth legal conclusions and  
19 questions of law to which no response is required. Also, Trend Hunter admits that it  
20 does not reside in the United States. In addition, Trend Hunter denies that Plaintiff  
21 has suffered any injury claimed in this action or as a result of Trend Hunter’s  
22 conduct, and Trend Hunter denies each and every remaining averment in Paragraph  
23 3 of the Second Amended Complaint.

24 **RESPONSE AS TO AVERMENTS AS TO THE PARTIES**

25 4. In response to Paragraph 4 of the Second Amended Complaint, Trend  
26 Hunter is without knowledge or information sufficient to form a belief as to the truth  
27 of the averments contained in Paragraph 4 of the Second Amended Complaint, and  
28 on that basis denies each and every allegation contained therein.

1           5.     In response to Paragraph 5 of the Second Amended Complaint, Trend  
2 Hunter admits the averments contained in Paragraph 5 of the Second Amended  
3 Complaint.

4           6.     In response to Paragraph 6 of the Second Amended Complaint, Trend  
5 Hunter is without knowledge or information sufficient to form a belief as to the truth  
6 of the averments contained in Paragraph 6 of the Second Amended Complaint, and  
7 on that basis denies each and every allegation contained therein.

8           **RESPONSE AS TO AVERMENTS AS TO STATEMENT OF FACTS**

9           7.     In response to Paragraph 7 of the Second Amended Complaint, Trend  
10 Hunter is without knowledge or information sufficient to form a belief as to the truth  
11 of the averments contained in Paragraph 7 of the Second Amended Complaint, and  
12 on that basis denies each and every allegation contained therein.

13          8.     In response to Paragraph 8 of the Second Amended Complaint, Trend  
14 Hunter is without knowledge or information sufficient to form a belief as to the truth  
15 of the averments contained in Paragraph 8 of the Second Amended Complaint, and  
16 on that basis denies each and every allegation contained therein.

17          9.     In response to Paragraph 9 of the Second Amended Complaint, Trend  
18 Hunter is without knowledge or information sufficient to form a belief as to the truth  
19 of the averments contained in Paragraph 9 of the Second Amended Complaint, and  
20 on that basis denies each and every allegation contained therein.

21          10.    In response to Paragraph 10 of the Second Amended Complaint, Trend  
22 Hunter is without knowledge or information sufficient to form a belief as to the truth  
23 of the averments contained in Paragraph 10 of the Second Amended Complaint, and  
24 on that basis denies each and every allegation contained therein.

25          11.    In response to Paragraph 11 of the Second Amended Complaint, Trend  
26 Hunter is without knowledge or information sufficient to form a belief as to the truth  
27 of the averments contained in Paragraph 11 of the Second Amended Complaint, and  
28 on that basis denies each and every allegation contained therein.

1           12. In response to Paragraph 12 of the Second Amended Complaint, Trend  
2 Hunter is without knowledge or information sufficient to form a belief as to the truth  
3 of the averments contained in Paragraph 12 of the Second Amended Complaint, and  
4 on that basis denies each and every allegation contained therein.

5           13. In response to Paragraph 13 of the Second Amended Complaint, Trend  
6 Hunter is without knowledge or information sufficient to form a belief as to the truth  
7 of the averments contained in Paragraph 13 of the Second Amended Complaint, and  
8 on that basis denies each and every allegation contained therein.

9           14. In response to Paragraph 14 of the Second Amended Complaint, Trend  
10 Hunter is without knowledge or information sufficient to form a belief as to the truth  
11 of the averments contained in Paragraph 14 of the Second Amended Complaint, and  
12 on that basis denies each and every allegation contained therein.

13           15. In response to Paragraph 15 of the Second Amended Complaint, Trend  
14 Hunter is without knowledge or information sufficient to form a belief as to the truth  
15 of the averments contained in Paragraph 15 of the Second Amended Complaint, and  
16 on that basis denies each and every allegation contained therein.

17           16. In response to Paragraph 16 of the Second Amended Complaint, Trend  
18 Hunter is without knowledge or information sufficient to form a belief as to the truth  
19 of the averments contained in Paragraph 16 of the Second Amended Complaint, and  
20 on that basis denies each and every allegation contained therein.

21           17. In response to Paragraph 17 of the Second Amended Complaint, Trend  
22 Hunter is without knowledge or information sufficient to form a belief as to the truth  
23 of the averments contained in Paragraph 17 of the Second Amended Complaint, and  
24 on that basis denies each and every allegation contained therein.

25           18. In response to Paragraph 18 of the Second Amended Complaint, Trend  
26 Hunter is without knowledge or information sufficient to form a belief as to the truth  
27 of the averments contained in Paragraph 18 of the Second Amended Complaint, and  
28 on that basis denies each and every allegation contained therein.

1           19. In response to Paragraph 19 of the Second Amended Complaint, Trend  
2 Hunter is without knowledge or information sufficient to form a belief as to the truth  
3 of the averments contained in Paragraph 19 of the Second Amended Complaint, and  
4 on that basis denies each and every allegation contained therein.

5           20. In response to Paragraph 20 of the Second Amended Complaint, Trend  
6 Hunter is without knowledge or information sufficient to form a belief as to the truth  
7 of the averments contained in Paragraph 20 of the Second Amended Complaint, and  
8 on that basis denies each and every allegation contained therein.

9           21. In response to Paragraph 21 of the Second Amended Complaint, Trend  
10 Hunter is without knowledge or information sufficient to form a belief as to the truth  
11 of the averments contained in Paragraph 21 of the Second Amended Complaint, and  
12 on that basis denies each and every allegation contained therein.

13           22. In response to Paragraph 22 of the Second Amended Complaint, Trend  
14 Hunter is without knowledge or information sufficient to form a belief as to the truth  
15 of the averments contained in Paragraph 22 of the Second Amended Complaint, and  
16 on that basis denies each and every allegation contained therein.

17           23. In response to Paragraph 23 of the Second Amended Complaint, Trend  
18 Hunter is without knowledge or information sufficient to form a belief as to the truth  
19 of the averments contained in Paragraph 23 of the Second Amended Complaint, and  
20 on that basis denies each and every allegation contained therein.

21           24. In response to Paragraph 24 of the Second Amended Complaint, Trend  
22 Hunter is without knowledge or information sufficient to form a belief as to the truth  
23 of the averments contained in Paragraph 24 of the Second Amended Complaint, and  
24 on that basis denies each and every allegation contained therein.

25           25. In response to Paragraph 25 of the Second Amended Complaint, Trend  
26 Hunter is without knowledge or information sufficient to form a belief as to the truth  
27 of the averments contained in Paragraph 25 of the Second Amended Complaint, and  
28 on that basis denies each and every allegation contained therein.

1           26. In response to Paragraph 26 of the Second Amended Complaint, Trend  
2 Hunter is without knowledge or information sufficient to form a belief as to the truth  
3 of the averments contained in Paragraph 26 of the Second Amended Complaint, and  
4 on that basis denies each and every allegation contained therein.

5           27. In response to Paragraph 27 of the Second Amended Complaint, Trend  
6 Hunter is without knowledge or information sufficient to form a belief as to the truth  
7 of the averments contained in Paragraph 27 of the Second Amended Complaint, and  
8 on that basis denies each and every allegation contained therein.

9           28. In response to Paragraph 28 of the Second Amended Complaint, Trend  
10 Hunter is without knowledge or information sufficient to form a belief as to the truth  
11 of the averments contained in Paragraph 28 of the Second Amended Complaint, and  
12 on that basis denies each and every allegation contained therein.

13           29. In response to Paragraph 29 of the Second Amended Complaint, Trend  
14 Hunter is without knowledge or information sufficient to form a belief as to the truth  
15 of the averments contained in Paragraph 29 of the Second Amended Complaint, and  
16 on that basis denies each and every allegation contained therein.

17           30. In response to Paragraph 30 of the Second Amended Complaint, Trend  
18 Hunter is without knowledge or information sufficient to form a belief as to the truth  
19 of the averments contained in Paragraph 30 of the Second Amended Complaint, and  
20 on that basis denies each and every allegation contained therein.

21           31. In response to Paragraph 31 of the Second Amended Complaint, Trend  
22 Hunter is without knowledge or information sufficient to form a belief as to the truth  
23 of the averments contained in Paragraph 31 of the Second Amended Complaint, and  
24 on that basis denies each and every allegation contained therein.

25           32. In response to Paragraph 32 of the Second Amended Complaint, Trend  
26 Hunter denies the averment in the first sentence that it has engaged it committed acts  
27 of copyright infringement as alleged. Trend Hunter is without knowledge or  
28 information sufficient to form a belief as to the truth of the remaining averments

1 contained in Paragraph 32 of the Second Amended Complaint, and on that basis  
2 denies each and every allegation contained therein.

3 33. In response to Paragraph 33 of the Second Amended Complaint, Trend  
4 Hunter is without knowledge or information sufficient to form a belief as to the truth  
5 of the averments contained in Paragraph 33 of the Second Amended Complaint, and  
6 on that basis denies each and every allegation contained therein.

7 34. In response to Paragraph 34 of the Second Amended Complaint, Trend  
8 Hunter admits that: (1) it has operated a website [www.trendhunter.com](http://www.trendhunter.com) (“Trend  
9 Hunter Website”); (2) the Trend Hunter Website has stated that the Trend Hunter  
10 community “is the world’s largest, most popular trend community” at certain  
11 periods of time; and (3) the Trend Hunter Website has stated “up to 20,000,000  
12 monthly views” at certain periods of time. Trend Hunter denies each and every  
13 remaining averment in Paragraph 34 of the Second Amended Complaint.

14 35. In response to Paragraph 35 of the Second Amended Complaint, Trend  
15 Hunter denies each and every averment in Paragraph 35 of the Second Amended  
16 Complaint.

17 36. In response to Paragraph 36 of the Second Amended Complaint, Trend  
18 Hunter admits that it has owned and operated the Trend Hunter Website which was  
19 launched in 2005. Trend Hunter is without knowledge or information sufficient to  
20 form a belief as to the truth of the remaining averments contained in Paragraph 36 of  
21 the Second Amended Complaint, and on that basis denies each and every allegation  
22 contained therein.

23 37. In response to Paragraph 37 of the Second Amended Complaint, Trend  
24 Hunter denies each and every averment in Paragraph 37 of the Second Amended  
25 Complaint.

26 38. In response to Paragraph 38 of the Second Amended Complaint, Trend  
27 Hunter admits that: (1) Jeremy Gutsche is a founder and director of Trend Hunter;  
28 (2) Jeremy Gutsche is stated to be an “innovation and chaos expert” on the Trend



1 Hunter Website; (3) Jeremy Gutsche is the author of the books *Create the Future:*  
 2 *Tactics for Disruptive Thinking; Better and Faster: the Proven Path to Unstoppable*  
 3 *Ideas* and *Exploiting Chaos:* and *150 Ways to Spark Innovation During Times of*  
 4 *Change* (collectively, “the Books”); (4) The Books are included in a copyright  
 5 registration with the U.S. Copyright Office, with Jeremy Gutsche Consulting, Inc. as  
 6 the copyright claimant; (5) at the bottom of the Trend Hunter Website, the copyright  
 7 symbol followed by its name appeared as follows during certain periods of time: “©  
 8 Copyright 2022 TREND HUNTER Inc.”; and (6) Trend Hunter and Jeremy Gutsche  
 9 are aware of the existence of copyright laws in the United States and Canada.

10 However, Trend Hunter denies that: (1) Trend Hunter or Jeremy Gutsche knew of a  
 11 necessity to license the images referenced in the Second Amended Complaint; and  
 12 (2) Trend Hunter or Jeremy Gutsche placed the images on [www.trendhunter.com](http://www.trendhunter.com).  
 13 Trend Hunter is without knowledge or information sufficient to form a belief as to  
 14 the truth of the remaining averments contained in Paragraph 38 of the Second  
 15 Amended Complaint, and on that basis denies each and every allegation contained  
 16 therein.

17 39. In response to Paragraph 39 of the Second Amended Complaint, Trend  
 18 Hunter denies each and every averment in Paragraph 39 of the Second Amended  
 19 Complaint.

20 40. In response to Paragraph 40 of the Second Amended Complaint, Trend  
 21 Hunter is without knowledge or information sufficient to form a belief as to the truth  
 22 of the averments contained in Paragraph 40 of the Second Amended Complaint, and  
 23 on that basis denies each and every allegation contained therein.

24 41. In response to Paragraph 41 of the Second Amended Complaint, Trend  
 25 Hunter denies each and every averment in Paragraph 41 of the Second Amended  
 26 Complaint.

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1           42. In response to Paragraph 42 of the Second Amended Complaint, Trend  
2 Hunter denies each and every averment in Paragraph 42 of the Second Amended  
3 Complaint.

4           **RESPONSE AS TO AVERMENTS AS TO FIRST CLAIM FOR RELIEF**

5           43. In response to Paragraph 43 of the Second Amended Complaint, Trend  
6 Hunter incorporates by reference the responses, admissions and denials contained in  
7 Paragraphs 1 through 42 above as if fully set forth herein.

8           44. In response to Paragraph 44 of the Second Amended Complaint, Trend  
9 Hunter is without knowledge or information sufficient to form a belief as to the truth  
10 of the averments contained in Paragraph 44 of the Second Amended Complaint, and  
11 on that basis denies each and every allegation contained therein.

12           45. In response to Paragraph 45 of the Second Amended Complaint, Trend  
13 Hunter is without knowledge or information sufficient to form a belief as to the truth  
14 of the averments contained in Paragraph 45 of the Second Amended Complaint, and  
15 on that basis denies each and every allegation contained therein.

16           46. In response to Paragraph 46 of the Second Amended Complaint, Trend  
17 Hunter denies each and every averment in Paragraph 46 of the Second Amended  
18 Complaint.

19           47. In response to Paragraph 47 of the Second Amended Complaint, Trend  
20 Hunter denies each and every averment in Paragraph 47 of the Second Amended  
21 Complaint.

22           48. In response to Paragraph 48 of the Second Amended Complaint, Trend  
23 Hunter denies each and every averment in Paragraph 48 of the Second Amended  
24 Complaint.

25           49. In response to Paragraph 49 of the Second Amended Complaint, Trend  
26 Hunter denies each and every averment in Paragraph 49 of the Second Amended  
27 Complaint.

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2       50. In response to Paragraph 50 of the Second Amended Complaint, Trend  
3 Hunter denies each and every averment in Paragraph 50 of the Second Amended  
4 Complaint.

5       51. In response to Paragraph 51 of the Second Amended Complaint, Trend  
6 Hunter denies each and every averment in Paragraph 51 of the Second Amended  
7 Complaint.

8       52. In response to Paragraph 52 of the Second Amended Complaint Trend  
9 Hunter denies each and every averment in Paragraph 52 of the Second Amended  
10 Complaint.

11       53. In response to Paragraph 53 of the Second Amended Complaint, Trend  
12 Hunter denies each and every averment in Paragraph 53 of the Second Amended  
13 Complaint.

14       54. In response to Paragraph 54 of the Second Amended Complaint, Trend  
15 Hunter denies each and every averment in Paragraph 54 of the Second Amended  
16 Complaint.

17                   **RESPONSE AS TO PRAYER**

18       Trend Hunter denies that Plaintiff is entitled to any of the relief it seeks.

19                   **AFFIRMATIVE DEFENSES**

20       Trend Hunter alleges, on information and belief, the following affirmative  
21 defenses. By alleging the following affirmative defenses, Trend Hunter does not  
22 assume any burden of production, proof, or persuasion as to such defenses not  
23 otherwise imposed by law.

24                   **FIRST AFFIRMATIVE DEFENSE**

25                   **(Failure to State a Claim)**

26       Plaintiff's action, and each and every claim contained therein, fails to state a  
27 claim upon which relief can be granted, and fails to state a cause of action against  
28 Trend Hunter.

1 **SECOND AFFIRMATIVE DEFENSE**

2 **(DMCA Safe Harbor Provisions)**

3 Plaintiff's action is barred by the "Safe Harbor" provisions of 17 U.S.C. §  
4 512, and Trend Hunter qualifies for the DMCA "Safe Harbor" protections or  
5 immunities.

6 **THIRD AFFIRMATIVE DEFENSE**

7 **(DMCA Compliant Notification)**

8 Plaintiff's action is barred, in whole or in part, by Plaintiff's failure to comply  
9 with the requirements of the DMCA, 17 U.S.C. § 512, including by failing to  
10 provide Trend Hunter with a DMCA-compliant notification of any claimed  
11 infringement.

12 **FOURTH AFFIRMATIVE DEFENSE**

13 **(Fair Use)**

14 Plaintiff's action is barred, in whole or in part, by the doctrine of fair use.

15 **FIFTH AFFIRMATIVE DEFENSE**

16 **(Waiver, Abandonment, Forfeiture, Surrender)**

17 Plaintiff's action is barred, in whole or in part, because Plaintiff has expressly  
18 or implied waived, abandoned, forfeited, and/or surrendered the allegedly infringed  
19 rights previously held under the Copyright Act with respect to the images at issue.

20 **SIXTH AFFIRMATIVE DEFENSE**

21 **(Invalidity or Unenforceability of Copyright)**

22 Plaintiff's action is barred, in whole or in part, because the purported  
23 copyrights are invalid, void and/or unenforceable.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 **(Failure to Mark)**

26 Plaintiff's action is barred, in whole or in part, because the alleged  
27 copyrighted material was not properly marked to give Defendants notice of the  
28 claimed copyright.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

To the extent that Plaintiff has failed to mitigate, minimize, or avoid any damages it allegedly sustained, any recovery against Trend Hunter must be reduced accordingly.

**NINTH AFFIRMATIVE DEFENSE**

**(No Injury or Damages)**

Plaintiff has not suffered any injury or damages as a result of any actions taken by Trend Hunter, and Plaintiff is therefore barred from asserting the action, or any claim therein, against Trend Hunter.

**TENTH AFFIRMATIVE DEFENSE**

**(Laches, Waiver, Estoppel, Unclean Hands)**

Plaintiff's claims are barred, in whole or in part, by the doctrines of laches, waiver, estoppel and/or unclean hands.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Proximate Cause)**

Plaintiff's damages, if any, were caused by others than Trend Hunter, and that such fault on the part of others proximately and concurrently caused or contributed to the loss and damages complained of by Plaintiff, if any there were.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

Plaintiff's action and the causes of action contained therein are barred by all applicable statutes of limitation.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Standing)**

Plaintiff lacks standing to bring all, or at least some, of the claims asserted in the Second Amended Complaint.

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**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Reservation)**

Plaintiff has failed to set out its claims with sufficient particularity to permit Trend Hunter to raise all appropriate defenses and, therefore, Trend Hunter reserves its rights to add additional defenses.

**PRAYER**

WHEREFORE, Trend Hunter prays for judgment as follows:

- (a) That Plaintiff take nothing by reason of the Second Amended Complaint;
- (b) That Plaintiff's Complaint be dismissed with prejudice;
- (c) That Trend Hunter be awarded costs of suit herein; and
- (d) For such other and further relief as the Court deems just and proper.

Dated: September 26, 2023

Respectfully submitted,

CLYDE & CO US LLP

By: /s/ Alison K. Beanum

Alison K. Beanum

Veena A. Mitchell

Kirsten Soto

Attorneys for Defendant

TREND HUNTER INC.

**DEMAND FOR JURY TRIAL**

Defendant Trend Hunter hereby demands trial by jury of all issues so triable under the law.

Dated: September 26, 2023

Respectfully submitted,

CLYDE & CO US LLP

By: /s/ Alison K. Beanum

Alison K. Beanum

Veena A. Mitchell

Kirsten Soto

Attorneys for Defendant

TREND HUNTER INC.